

Citation

Rev. Rul. 72-124

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Database

FTX-RR

Mode

Page

1972-1 I.R.B. 145, 1972 WL 29462 (I.R.S.)

Internal Revenue Service (I.R.S.)

Revenue Ruling

Published: 1972

CFR 1.501(c)(3)-1: Organization organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals.

Requirements that 'homes for the aged' must meet to qualify for exemption under section 501(c)(3) of the Code are explained; Revenue Ruling 57-467 superseded.

Advice has been requested whether an organization that otherwise qualifies for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954 is operated for charitable purposes by reason of the activities described below.

The organization was formed under the sponsorship of leaders of a church congregation in a particular community for the purpose of establishing and operating a home for the aged. Its board of trustees is composed of leaders of the congregation, as well as other civic leaders in the community. It provides housing, limited nursing care, and other services and facilities needed to enable its elderly residents to live safe, useful, and independent lives. Admission to the home is generally limited to persons who are at least 65 years of age.

The organization is self-supporting in that its operating funds are derived principally from fees charged for residence in the home. An entrance fee is charged upon admission, with monthly fees charged thereafter for the life of each resident. Fees vary according to the size of the accommodations furnished.

Because of the necessity of retiring its indebtedness, the organization ordinarily admits only those who are able to pay its established rates. However, once persons are admitted by established policy to maintaining them as residents, even if they subsequently become unable to pay its monthly charges. It does this by maintaining such individuals out of its own reserves to the extent available, by seeking whatever support is available under local and Federal welfare programs, by soliciting members of the church congregation and the general public, or by some combination of these means.

The organization's receipts are used exclusively in furtherance of its stated purposes. Its charges are set at an amount sufficient to amortize indebtedness, maintain reserves adequate to provide for the life care of its residents, and set aside enough for a limited amount of expansion sufficient to meet the community's needs. Net earnings are thus generally used to improve the care provided, retire indebtedness, subsidize any resident unable to continue making his monthly payments, or expand the facilities of the home where the needs of the community warrant such expansion. No part of the organization's net earnings inures, directly or indirectly, to the benefit of any private

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ev. Rul. 72-124

shareholder or individual. All employees receive no more than reasonable compensation for services rendered.

Section 501(c)(3) of the Code provides for exemption from Federal income tax or organizations organized and operated exclusively for charitable purposes.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations states that the term "charitable" is used in section 501(c)(3) of the Code in its generally accepted legal sense. Such term includes the relief of the poor and distressed or of the underprivileged.

Providing for the special needs of the aged has long been recognized as a charitable purpose for Federal tax purposes where the requisite elements of relief of distress and community benefit have been found to be present.

Of principal importance are three rulings in which the Internal Revenue Service has given consideration to the tax exempt status of homes for the aged as charitable organizations described in section 501(c)(3) of the Code: Revenue Ruling 57-467, C.B. 1957-2, 313; Revenue Ruling 61-72, C.B. 1961-1, 188; and Revenue Ruling 64-231, C.B. 1964-2, 139.

Revenue Ruling 57-467 holds that a home for aged people that does not accept charity guests and that requires the discharge of guests who fail to make certain required monthly payments is not organized and operated exclusively for charitable purposes and is, therefore, not entitled to exemption from Federal income tax under section 501(c)(3) of the Code.

Revenue Ruling 61-72 holds that, if otherwise qualified, a home for the aged is exempt under section 501(c)(3) of the Code if "(1) the organization is dedicated to providing, and it fact furnishes, care and housing to aged individuals who would otherwise be unable to provide for themselves without hardship, (2) such services are rendered to all or a reasonable proportion of its residents at substantially below the actual cost thereof, to the extent of the organization's financial ability, and (3) the services are of the type which minister to the needs and the relief of hardship or distress of aged individuals."

Revenue Ruling 64-231 holds that an entrance fee paid in addition to a required lump sum life-care payment as a prerequisite to obtaining direct personal services and residence in a home for the aged must be included along with the required lump-sum life-care payment to the home in determining whether the home meets the "below cost" requirement of Revenue Ruling 61-72.

Under the Revenue Rulings referred to above, exemption from Federal income tax under section 501(c)(3) of the Code is conditioned, in effect, upon whether an organization relieves the financial distress of aged persons by providing care and housing for them on a gratuitous or below cost, basis.

However, it is now generally recognized that the aged, apart from considerations of financial distress alone, are also, as a class, highly susceptible to other forms of distress in the sense they have special needs because of their advanced years. For example, it is recognized in the Congressional declaration of objectives, Older Americans Act of 1965, Public Law 89-73, 89th Congress, 42 U.S.C. 3001, that such needs include suitable housing, physical and mental health care, civic, cultural, and recreational activities, and an overall environment conducive to dignity and independence, all specially designed to meet the needs of the aged. Satisfaction of these special needs contributes to the prevention and elimination of the causes of the unique forms of "distress" to which the aged, as a class, are highly

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Rev. Rul. 72-124

susceptible and may in the proper context constitute charitable purposes or functions even though direct financial assistance in the sense of relief of poverty may not be involved.

Thus, an organization, otherwise qualified for charitable status under section 501(c)(3) of the Code, which devotes its resources to the operation of a home for the aged will qualify for charitable status for purposes of Federal tax law if it operates in a manner designed to satisfy the three primary needs of aged persons. These are the need for housing, the need for health care, and the need for financial security.

The need for housing will generally be satisfied if the organization provides residential facilities that are specifically designed to meet some combination of the physical, emotional, recreational, social, religious, and similar needs of aged persons.

The need for health care will generally be satisfied if the organization either directly provides some form of health care, or in the alternative, maintains some continuing arrangement with other organizations, facilities, or health personnel, designed to maintain the physical, and if necessary, mental well-being of its residents.

The need for financial security, i.e., the aged person's need for protection against the financial risks associated with later years of life, will generally be satisfied if two conditions exist. First, the organization must be committed to an established policy, whether written or in actual practice, of maintaining in residence any persons who become unable to pay their regular charges. This may be done by utilizing the organization's own reserves, seeking funds from local and Federal welfare units, soliciting funds from its sponsoring organization, its members, or the general public, or by some combination thereof. However, an organization that is required by reason of Federal or state conditions imposed with respect to the terms of its financing agreements to devote its facilities to housing only aged person of low or moderate income not exceeding specified levels and to recover operating costs from such residents may satisfy this condition even though it may not be committed to continue care of individuals who are no longer able to pay the established rates for residence because of a change in their financial circumstances. See, for example, section 236 of the National Housing Act, P.L. 90-448. 82 Stat. 476, 498 (12 U.S.C. 1715 z-1).

As to the second condition respecting the provision of financial security, the organization must operate so as to provide its services to the aged at the lowest feasible cost, taking into consideration such expenses as the payment of indebtedness, maintenance of adequate reserves sufficient to insure the life care of each resident, and reserves for physical expansion commensurate with the needs of the community and existing resources of the organization. In case of doubt as to whether the organization is operating at the lowest feasible cost, the fact that an organization makes some part of its facilities available at rates below its customary charges for such facilities to persons of more limited means than its regular residents will constitute additional evidence that the organization is attempting to satisfy the need for financial security, provided the organization fulfills the first condition regarding the provision of financial security. The amount of any entrance life care, founder's, or monthly fee charged is not, per se, determinative of whether an organization is operating at the lowest feasible cost, but must be considered in relation to

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Rev. Rul. 72-124

all items of expense, including indebtedness and reserves.

The organization described in the instant case is relieving the distress of aged persons by providing for the primary needs of such individuals for housing, health care, and financial security in conformity with the criteria specified above. Accordingly, it is held that the organization is exempt from Federal income tax under section 501(c)(3) of the Code as an organization organized and operated exclusively for charitable purposes.

Revenue Ruling 57-467 is hereby superseded. Revenue Rulings 61-72 and 64-231 provide alternative criteria for charitable qualification of homes for the aged which are primarily concerned with providing care and housing for financially distressed aged persons. To the extent that a home for the aged can satisfy those criteria, those Revenue Rulings continue to remain in effect. However, Revenue Rulings 61-72 and 64-231 do not constitute the exclusive criteria for exemption from Federal income tax under section 501(c)(3) of the Code and any organization which meets the criteria set forth in this Revenue Ruling may also qualify for exemption under section 501(c)(3).

Even though an organization considers itself within the scope of this Revenue Ruling, it must file an application on Form 1023, Exemption Application, in order to be recognized by the Service as exempt under section 501(c)(3) of the Code. The application should be filed with the District Director of Internal Revenue for the district in which is located the principal place of business or principal office of the organization. See section 1.501(a)-1 of the Income Tax Regulations.

Rev. Rul. 72-124, 1972-1 I.R.B. 145, 1972 WL 29462 (I.R.S.)

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Citation

Rev. Rul. 79-18

FOUND DOCUMENT

Database

FTX-RR

Mode

Page

1979-1 C.B. 194, 1979 WL 50829 (I.R.S.)

Internal Revenue Service (I.R.S.)

Revenue Ruling

HOUSING, ELDERLY

Published: 1979

26 CFR 1.501(c)(3)-1: Organizations organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals.

Housing; elderly. A nonprofit organization that provides specially designed housing to elderly persons at the lowest feasible cost and maintains in residence those tenants who subsequently become unable to pay its monthly fees is an organization operated exclusively for charitable purposes within the meaning of section 501(c)(3) of the Code.

Advice has been requested whether the nonprofit organization described below, which otherwise qualifies for exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954, is operated exclusively for charitable purposes.

The organization was formed to meet the housing needs of the elderly by building and operating an apartment rental complex designed especially for them. It was formed under the sponsorship of community leaders to meet a community need for such a facility. Its board of directors consists of civic leaders and other individuals with a particular interest in the problems of the elderly.

The complex consists of apartment units that are designed, constructed, and equipped in such a way as to meet the special needs of its elderly residents. It is constructed with fire-resistant materials and is equipped with safety features such as grab bars by bathtubs and toilets, wide entrance-exit doorways, ramps and elevators for wheelchair use, floors designed to help prevent slips and falls, conveniently located electrical outlets and cabinets to avoid strenuous bending or stretching, windows at eye level for residents confined to wheelchairs, and an emergency 24-hour alarm system.

The complex has an employee on duty 24 hours a day who gives temporary aid in emergencies, contacts professional help (doctor, ambulance service, etc.) and ensures that the steps necessary to render aid are carried out. The complex also provides transportation for medical examination and follow-up treatment.

The complex contains a lounge and indoor and outdoor recreation areas. The resident manager coordinates a recreational and social program for the residents.

Admission to the complex is generally limited to persons who are at least 65 years of age.

While the initial funds for building and equipping the facility were provided by both governmental and foundation grants, the organization is self-supporting

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Rev. Rul. 79-18

in that its operating funds are derived principally from fees charged for residence in the facility. The organization admits as tenants only elderly persons who are able to pay the full stated rental charges. The rental charges are set at a level within the financial reach of a significant segment of the community's elderly persons. However, once persons are admitted to the facility, the organization is committed by established policy to maintaining them as residents, to the extent it is able, even if they subsequently become unable to pay its monthly charges. It effectuates this policy by maintaining such individuals out of its own reserves, by seeking whatever support is available under local and Federal welfare programs, by soliciting contributions from the general public, or by using some combination of these means.

The organization provides services to its elderly residents at the lowest feasible cost. Its receipts are used exclusively in furtherance of its stated purposes. Its charges are set at an amount sufficient to maintain reserves adequate to pay for the life care of any of its residents who may require it, and to enable it to set aside enough for a limited amount of expansion sufficient to meet the community's needs. Net earnings are thus generally used to improve the specialized services and facilities provided, to subsidize any resident unable to continue making his monthly payments, or to expand the facility where the needs of the community warrant such expansion. No part of the organization's net earnings inures, directly or indirectly, to the benefit of any private shareholder or individual. No employee receives more than reasonable compensation for services rendered.

Section 501(c)(3) of the Code provides for exemption from federal income tax of organizations organized and operated exclusively for charitable purposes.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations states that the term 'charitable' is used in section 501(c)(3) of the Code in its generally accepted legal sense. Such term includes the relief of the poor and distressed.

Revenue Ruling 72-124, 1972-1 C.B. 145, sets forth requirements that homes for the aged must meet in order to qualify for exemption under section 501(c)(3) of the Code. The Revenue Ruling makes clear that a home for the aged will be deemed 'charitable' if it meets the special needs of the elderly such as the need for health care, financial security, and residential facilities designed to meet specific physical, social, and recreational requirements of the elderly. Such a home need not provide direct financial assistance to the elderly in order to be 'charitable,' since poverty is only one form of distress to which the elderly as a class are particularly susceptible.

Thus, when an organization that otherwise qualifies for exemption under section 501(c)(3) of the Code provides specially designed housing as described above that is within the financial reach of a significant segment of the community's elderly persons, and when the organization commits itself to operating such housing at the lowest feasible cost (consistent with its maintaining the reserve described above) and to maintaining in residence those tenants who become unable to pay its monthly fees, such organization is operated to relieve the major forms of distress to which the elderly are susceptible. Accordingly, it qualifies for exemption from federal income tax under section 501(c)(3) as an organization operated exclusively for charitable purposes.

Even though an organization considers itself within the scope of this Revenue
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Rev. Rul. 79-18

Ruling, it must file an application on Form 1023, Application for Recognition of Exemption, in order to be recognized by the Service as exempt under section 501(c)(3) of the Code. See sections 1.501(a)-1 and 1.508-1(a) of the regulations. In accordance with the instructions to Form 1023, the application should be filed with the District Director of Internal Revenue for the key district indicated therein.

Rev. Rul. 79-18, 1979-1 C.B. 194, 1979 WL 50829 (I.R.S.)

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FEB 05,1999

Page 5

WestCheck Billing Report

Total Number of Requests: 1

Find Documents: 1

Client Identifier: KINNAMON

Date of Request: 02/05/1999

Time for this Identifier

Net Elapsed Time	Billable Time
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Connect/Comm 0:00:03	0:00:03
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Note: The Time for this Identifier excludes
offline transmission time.

Schedule F. Homes for the Aged or Handicapped

-
- 1** What are the requirements for admission to residency? Explain fully and attach promotional literature and application forms.
-
- 2** Does or will the home charge an entrance or founder's fee? ☐ Yes ☐ No
If "Yes," explain and specify the amount charged.
-
- 3** What periodic fees or maintenance charges are or will be required of its residents?
-
- 4a** What established policy does the home have concerning residents who become unable to pay their regular charges?
-
- b** What arrangements does the home have or will it make with local and Federal welfare units, sponsoring organizations, or others to absorb all or part of the cost of maintaining those residents?
-
- 5** What arrangements does or will the home have to provide for the health needs of its residents?
-
- 6** In what way are the home's residential facilities designed to meet some combination of the physical, emotional, recreational, social, religious, and similar needs of the aged or handicapped?
-
- 7** Provide a description of the home's facilities and specify both the residential capacity of the home and the current number of residents.
-
- 8** Attach a sample copy of the contract or agreement the organization makes with or requires of its residents.
-

For more information, see back of Schedule F.

Instructions

Line 1

Provide the criteria for admission to the home and submit brochures, pamphlets, or other printed material used to inform the public about the home's admissions policy.

Line 2

Indicate whether the fee charged is an entrance fee or a monthly charge, etc. Also, if the fee is an entrance fee, is it payable in a lump sum or on an installment basis?

Line 4

Indicate the organization's policy regarding residents who are unable to pay. Also, indicate whether the organization is subsidized for all or part of the cost of maintaining those residents who are unable to pay.

Line 5

Indicate whether the organization provides health care to the residents, either directly or indirectly, through some continuing arrangement with other organizations, facilities, or health personnel. If no health care is provided, indicate "N/A."